

Appl. No. 10/648,942
Atty. Docket No. CM2656M
Amdt. dated July 27, 2005
Reply to Office Action of June 1, 2005

REMARKS

Claims 1-13, 16-32 and 35-38 are now in the case.

Applicants have cancelled claims 14-15 and 33-34 without prejudice. Applicants may elect to pursue the canceled claims in a continuing application.

Applicants have amended claim 1 to include the features of a substrate having a caliper of no less than about 0.7 mm and a substrate that exhibits caliper rebound of greater than about 65%.

Applicants have added claims 35-38 to claim additional features.

Support for the amendment can be found in the specification as filed (see page 14, lines 1-9).

Double Patenting

Claims 1-12 and 31-34 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of copending Application No. 10/712,239 in view of Ikeda et al.

As suggested by the Examiner, Applicant is submitting a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) and a copy of the assignment to the Procter & Gamble company in order to overcome the nonstatutory double patenting rejection.

Claims 33-34 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 11 and 17 of U.S. Patent No. 6,383,431.

Applicants submit that claims 33 and 34 have been canceled therefore mooting the rejection.

Rejections under 35 U.S.C. 103

Claims 1-34 have been rejected for the reasons of record at paragraph 4 and 5 of the office action dated June 1, 2005.

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Applicants submit that claim 1 has been amended to include the features of a substrate having a caliper of no less than about 0.7 mm and a substrate that exhibits caliper rebound of greater than about 65%.

As best understood by Applicants none of the references cited by the office action either teach or suggest a nonwoven web as presently claimed.

Applicants respectfully remind the Examiner that is basic patent law that "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation ... to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." (Emphasis supplied) *In re Vaeck*, 947 F.2d 488, USPQ 2d 1438 (Fed Cir. 1991).

It is therefore Applicants' position that the office action has failed to establish a *prima facie* case of obviousness.

In view of the above, reconsideration and withdrawal of the rejections are therefore respectfully requested.

It is submitted that all the claims are in condition for allowance. Early and favorable action on all claims is therefore requested.

If the next action is other than to allow the claims, the favor of a telephonic interview is requested with the undersigned representative.

Respectfully submitted,
WONG *et al.*

By 

Thibault Fayette
Attorney for Applicants
Reg. No. 56,143
Tel. No. (513) 627-4593

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Customer No. 27752